

*****CONFIDENTIAL DEPOSITION*****

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LEIGHTON TECHNOLOGIES, LLC,)
Plaintiff-Counterclaim)
Defendant,)
-vs-) Case No.
) 04 Civ 2496 (CM)
OBERTHUR CARD SYSTEMS, S.A.,)
Defendant-Counterclaim)
Plaintiff.)

Deposition of MARK A. WATKINS, ESQ., a witness
herein, called by the Defendant-Counterclaim
Plaintiff as if upon cross-examination, and
taken before David J. Collier, RPR, Notary
Public within and for the State of Ohio,
pursuant to notice and subpoena, and pursuant to
the further stipulations of counsel herein
contained, on Friday, the 2nd day of December,
2005 at 9:22 a.m., at the offices of Hahn,
Loeser & Parks, 501 S. Main Street, Suite 300,
City of Akron, County of Summit, State of Ohio.

Tackla
& Associates
Court Reporting & Videotaping

Tackla & Associates
1020 Ohio Savings Plaza
1801 E. Ninth Street
Cleveland, Ohio 44114
216-241-3918 • Fax 216-241-3935

1 A Okay. I don't recall whether a search was
2 conducted or not.

3 Q Would you have had a conversation with
4 Mr. Leighton concerning his knowledge of the
5 prior art at that time period?

6 A I have no recollection of a conversation,
7 but -- I mean, a minute ago we were talking
8 about a search, now you're talking about
9 Leighton's knowledge of art, so I guess I need
10 to know what the question is.

11 Q Well, the question is: Do you have any
12 recollection of having a conversation with
13 Mr. Leighton concerning his knowledge of the
14 prior art at the time that he -- the preparation
15 and filing of the first patent on his behalf
16 occurred?

17 You had testified, just as an aside,
18 that sometimes you don't need to conduct a
19 search because you will just discuss it with the
20 applicant. I'm asking you under those
21 circumstances, are those the circumstances that
22 prevailed?

23 A I don't have any specific recollection as
24 to conversations that I had with Mr. Leighton,
25 but I feel certain that we would have discussed

1 the prior art that he was aware of in the
2 context of any work we did for him.

3 Q Okay.

4 - - - - -

5 (Watkins Deposition Exhibit 2

6 marked for identification.)

7 - - - - -

8 Q I'm going to place a document in front of
9 you, Mr. Watkins. Do you recognize this
10 document? I'll ask you to thumb through the
11 pages.

12 Let's turn to the -- you can thumb
13 through these. Do you recognize any of these
14 documents?

15 A Well, the middle two pages are -- well, the
16 third page, I'm not sure what that is, but this
17 appears to be pages from the Patent and
18 Trademark Office official file concerning a
19 provisional patent application naming Keith
20 Leighton as an inventor.

21 Q Do you see what the filing date of that
22 application was?

23 A It's October 17th of 1995.

24 Q And down at the bottom under the section
25 marked Address, what do you see there?

1 you please describe what you mean by that.

2 A He would provide written materials maybe
3 which we would either -- as I said, with the
4 provisional application, maybe we even filed it,
5 or perhaps, you know, he certainly reviewed
6 everything that we prepared.

7 Q If you were to review your files, do you
8 think that would reflect that, that fact, or
9 those facts, the files that you maintain at your
10 office in connection with this particular
11 patent?

12 MR. JACOBS: Would they reflect
13 Leighton's comments, essentially?

14 MR. SHARINN: Exactly. His
15 involvement, level of involvement.

16 MR. JACOBS: Okay.

17 A They may or may not. I can't tell.

18 MR. SHARINN: Blair, do you
19 recall whether or not you produced those files
20 to us in whole or in part?

21 MR. JACOBS: We did, not in
22 whole. Some of the -- some of the -- some of
23 the communication that would show the level of
24 participation of Mr. Leighton was seeking the
25 guidance of Mr. Watkins, and so that would